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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 118.

SOFRE L. ALEXANDER, APPELLANT,

vs.

SEFERINO CROLLOTT, JUSTICE OF THE PEACE OF PRECINCT No. 13 OF THE COUNTY OF BERNALILLO AND TERRITORY OF NEW MEXICO.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF NEW MEXICO.

FILED NOVEMBER 8, 1904.

(19,520.)

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1 In the Supreme Court of the Territory of New Mexico, January Term, A. D. 1904.

Be it remembered, that heretofore, on the 28th day of June, there was filed in the office of the clerk of the supreme court of the Territory of New Mexico a motion for a writ of prohibition together with an affidavit and the transcript of record in a certain cause entitled, Sofre L. Alexander, relator *vs.* Seferino Crollott, justice of the peace of the precinct No. 13 of the county of Bernalillo and Territory of New Mexico, which said motion for writ of prohibition, affidavit and transcript of record as aforesaid, were and are in words and figures, following to wit:—

2 In the Supreme Court of the Territory of New Mexico, in Vacation.

SOFRE L. ALEXANDER
v.
SEFERINO CROLLOTT, Justice of the Peace of Precinct No. 13 of the County of Bernalillo and Territory of New Mexico. } No. 1059.

Motion for Writ of Prohibition.

To the Honorable Wm. H. Pope, associate justice of the supreme court of the Territory of New Mexico:

Now comes Sofre L. Alexander, by his attorney, Neill B. Field Esq., and prays that he may be granted a writ of prohibition directed to Seferino Crollott justice of the peace of precinct No. 13 of the county of Bernalillo and Territory of New Mexico, commanding him to desist and refrain from any other proceedings in the five several actions of forcible entry and unlawful detainer, filed by A. W. Cleland in said court on June 14th, 1904, in which the said A. W. Cleland is plaintiff, and Sofre L. Alexander, and Valencino Garcia, and E. A. Huff, and W. Loucks *et al.*, and Marguerito Espinosa *et al.*, are respectively defendants, for reasons stated in the accompanying affidavit filed herewith.

SOFRE L. ALEXANDER,
By NEILL B. FIELD,
His Attorney.

3 In the Supreme Court of the Territory of New Mexico, in Vacation.

TERRITORY OF NEW MEXICO, } *ss:*
County of Bernalillo, }

Sofre L. Alexander, being duly sworn, on his oath states:

I.

That affiant is now, and ever since the month of December, 1902, has been, by himself and through his tenants, in the actual possession of blocks 13, 2, 16, 18, and lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21, 22, 23, and 24 in block 5, all in the Paris addition to Albuquerque, the same being situated immediately north of the Mountain road north of the city limits of the city of Albuquerque, New Mexico, and during all of said time, has been claiming in good faith to be the owner thereof; that on lot 19 in said block numbered 13, affiant, long prior to June 7th, 1904, had erected a house in which this affiant was, on the said day, and now is, residing; that on lots 5 and 6 in said block numbered 2, affiant, long prior to said June 7th 1904, had erected a house which on said day was, and for some time before had been, and now is, occupied by one Valencino Garcia, as the tenant of this affiant; that on lots 2 and 3 in said block numbered 16 affiant, long prior to said June 7th, 1904, had erected a house which was on said day, and for some time before had been and now is, occupied by one E. A. Huff as the tenant of this affiant; that on lots 3, 4, 5, 6, 7 and 8 in said block numbered 18, affiant, long prior to said June 7th, 1904, had erected a house which was, on said day, for some time before had been, and now is, occupied by W. Loucks and Frank Loucks as the tenants of this affiant; that on lot 4 in said block numbered 5, affiant, long prior to said June 7th, 1904, had erected a house, which on the said day was, for some time before had been, and now is, occupied by Marguerito Espinosa and Jose Espinosa as tenants of this affiant.

4 II.

That there is now, and for a long time past has been, a suit in equity pending in the district court of the county of Bernalillo and Territory of New Mexico, wherein this affiant is plaintiff and one Andrew W. Cleland is defendant, in which this affiant, the plaintiff in said suit, is seeking to establish his title to the tracts of land hereinbefore described, and to various other tracts and parcels of land, which said suit was, on said 7th day of June, and is now, pending and undetermined in the said district court.

III.

That on the 14th day of June, 1904, the said Andrew W. Cleland filed in the court of Seferino Crollott, justice of the peace in and for precinct 13 of Bernalillo county, Territory of New Mexico, an action of forcible entry and detainer against affiant, seeking an order of removal of this affiant from lot 19 in said block numbered 13 of said Paris addition and for damages and costs therein; and on said day filed in said court an action of forcible entry and detainer against the said Valencino Garcia to obtain an order of removal of the said Garcia from lots 5 and 6 in said block numbered 2 in said addition,

and for damages and costs therein; and on the same day and in the same court, filed an action of forcible entry and detainer against the said E. A. Huff, seeking an order of removal of the said E. A. Huff from lots 2 and 3 in said block numbered 16 in said addition, and for damages and costs therein; and on the same day and in the same court, filed an action of forcible entry and detainer against the said Marguerito Espinosa and Jose Espinosa, seeking an order of removal of said Marguerito Espinosa and Jose Espinosa, from lot 4 in said block numbered 5 in said addition, and for damages and costs therein; and on the same day and in the same court, filed an action of forcible entry and detainer against the said W. Loucks and Frank Loucks, seeking an order of removal of the said W. Loucks and Frank Loucks from lots 3, 4, 5, 6, 7 and 8 in block numbered 18 in said addition, and for damages and costs therein; in each of which said actions the unlawful entry is alleged as of June 7th,
5 1904.

That the said justice of the peace on said 14th day of June, 1904, issued process returnable on the 20th day of June, 1904, and caused the same to be served upon the several defendants therein, copies of the complaints and process in which said actions are hereto attached and made part of this affidavit as Exhibits Numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 thereto; that on June 23d, 1904, the day to which the hearing of said several actions was adjourned by said justice, this affiant filed in said action against him before said justice of the peace, his answer to the said complaint, duly verified, by which he denied the truth of the allegations of said complaint, and alleged that he was, on said June 7th, 1904, and had been, ever since the month of December, 1902, in the actual possession of the said tract of land, in said complaint described, claiming in good faith to be the owner thereof, and that a suit in chancery, in which this affiant was plaintiff and the said A. W. Cleland was defendant, and in which the affiant sought to establish his title to the tract of land described in said complaint, was then and had been for a long time prior thereto, pending and undetermined in the district court of Bernalillo county, New Mexico, and prayed that he might thence be dismissed by reason of the want of jurisdiction of said justice of the peace to try the question of title raised by said answer, a copy of which said answer is filed with this affidavit, and made a part hereof, marked Exhibit Numbered 11; that on the said June 23d, the defendants in each of the said actions hereinbefore mentioned filed before said justice of the peace, in each of said actions respectively, their respective answers to the said several complaints, in and by each of which said answers the said respective defendants denied the truth of the allegations of the respective complaints filed against them, and alleged respectively that long prior to the 7th day of June, 1904, they had entered into possession of the tracts of land described in the respective complaints against them, as the tenants of this affiant, who was in possession of said respective tracts of land,
6 claiming in good faith to be the owner thereof, long prior to

said 7th day of June, 1904, and further alleged the pendency of the said suit of this affiant against the said A. W. Cleland in the district court of Bernalillo county, in which this affiant sought to establish his title to the several tracts of land in the said several complaints described, and prayed that they might respectively be thence dismissed by reason of the want of jurisdiction in the said justice of the peace to try the question of title raised by said answers, copies of which said answers are hereto attached, and made a part hereof, marked respectively Exhibits Numbered 12, 13, 14 and 15.

That, upon the hearing of said several causes, this affiant and the other defendants in the said several actions moved the said justice of the peace to desist and refrain from the determination of said suits, because of the want of jurisdiction in said justice of the peace to try and determine the question of title raised by the said several answers, but the said justice of the peace overruled said motion and proceeded to and did give judgment in favor of the said plaintiff, and against each of said defendants for their removal from the several tracts of land described in said several complaints, and for damages and costs against each of said defendants respectively, copies of which said judgments are hereto attached, made a part hereof, marked respectively Exhibits Numbered 16, 17, 18, 19, and 20.

That affiant is informed and believes, and therefore states the facts to be, that each of the said judgments is void because of want of jurisdiction in the said justice of the peace to try and determine the question of title raised by the said respective answers, but the said justice of the peace will, unless prohibited by this court, issue final process upon the said void judgments to carry the same into effect.

That the title under which the said A. W. Cleland claims the right of possession to the said several tracts of land in the said several complaints described, is common to all of the said several tracts, and the title which this affiant seeks to establish to the said several tracts of land, in and by the said suit now pending in the district court of Bernalillo county, hereinbefore mentioned, is common to the said several tracts of land, and that all of the defendants in the said several actions claim under this affiant; that the question of title raised by the said several answers is the same question of title in all of said suits.

7

That affiant is informed by counsel and believes, and therefore states the fact to be, that he has no adequate remedy save by the writ of prohibition, and therefore this affiant prays that the said justice of the peace may be prohibited from further proceeding in the said several actions until the final order of this court in the premises.

That although this affiant and the defendants in the other of said actions, moved and requested the said court to have the record of the proceedings in said causes, and the judgments therein, show

that the only issue raised by this affiant and said other defendants was that of the question of the jurisdiction of said court to try the question of title raised by their said answers in said actions, which, as hereinbefore stated, was the fact, the said court refused to make such entry and to have the record of said causes and the judgments therein, show this fact, and thereupon entered the several judgments, copies of which have been heretofore attached to, and made a part of this record.

SOFRE L. ALEXANDER.

Subscribed and sworn to before me this 28th day of June, 1904.
[NOTARIAL SEAL.] FRANK H. MOORE,
Notary Public, Bernalillo County, New Mexico.

8 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff,
vs.
SOFRE L. ALEXANDER, Defendant.

Complaint.

A. W. Cleland, plaintiff in the above entitled cause, complains and says that heretofore, to wit, on the seventh day of June, 1904, at the county of Bernalillo, he was lawfully entitled to the possession of a certain tract of land, with a tenement thereon, situated in said county, known, designated and described as follows:

Lot nineteen (19) in block number thirteen (13) of the Paris addition, situate immediately north of the Mountain road, the north city limits of the city of Albuquerque, New Mexico.

And being so thereof lawfully entitled to the possession as aforesaid, the said defendant, Sofre L. Alexander on the day and year and at the county aforesaid, unlawfully and with force entered into and upon the said tract or parcel of land and tenement and detained and held possession thereof, and *such*, detains and holds possession thereof against the plaintiff.

Wherefore, the said plaintiff says that the said defendant is guilty of a forcible entry and unlawful detainer, contrary to the form of the statute in such case made and provided.

(Signed) A. W. CLELAND, Plaintiff.

TERRITORY OF NEW MEXICO, County of Bernalillo, } ss:

A. W. Cleland, being duly sworn, says that the said complant by him subscribed and the matters therein contained are true; and further saith not.

(Signed) A. W. CLELAND.

Sworn to and subscribed before me this 14th day of June, A. D. 1904.

(Signed) S. CROLLOTT,
Justice of the Peace, Precinct 13.

Exhibit No. 1.

9 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff,
vs.
VALENCINO GARCIA, Defendant.

Complaint.

A. W. Cleland, plaintiff in the above entitled cause, complains and says that heretofore, to wit, on the seventh day of June, 1904, at the county of Bernalillo, he was lawfully entitled to the possession of a certain tract of land, with a tenement thereon, situated in said county, known, designated and described as follows:

Lots five (5) and six (6) in block number two (2) of the Paris addition, situate immediately north of the Mountain road, the north city limits of the city of Albuquerque, New Mexico.

And being so thereof lawfully entitled to the possession as aforesaid, the said defendant, Valencino Garcia on the day and year and at the county aforesaid, unlawfully and with force entered into and upon the said tract or parcel of land and tenement and detained and held possession thereof, and *such*, detains and holds possession thereof against the plaintiff.

Wherefore, the said plaintiff says that the said defendant is guilty of a forcible entry and unlawful detainer, contrary to the form of the statute in such case made and provided.

(Signed) A. W. CLELAND, Plaintiff.

TERRITORY OF NEW MEXICO, } ss:
County of Bernalillo, }

A. W. Cleland, being duly sworn, says that the said complaint by him subscribed and the matters therein contained are true; and further saith not.

(Signed) A. W. CLELAND.

Sworn to and subscribed before me this 14th day of June, A. D. 1904.

(Signed) S. CROLLOTT,
Justice of the Peace, Precinct 13.

Exhibit No. 2.

10 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff,
vs.
E. A. HUFF, Defendant.

Complaint.

A. W. Cleland, plaintiff in the above entitled cause, complains and says that heretofore, to-wit, on the seventh day of June, 1904 at the county of Bernalillo, he was lawfully entitled to the possession of a certain tract of land, with a tenement thereon, situated in said county, known, designated and described as follows:

Lots two (2) and three (3) in block number sixteen (16) of the Paris addition, situate immediately north of the Mountain road, the north city limits of the city of Albuquerque, New Mexico.

And being so thereof lawfully entitled to the possession as aforesaid, the said defendant, E. A. Huff on the day and year and at the county aforesaid, unlawfully and with force entered into and upon the said tract or parcel of land and tenement and detained and held possession thereof, and *such*, detains and holds possession thereof against the plaintiff.

Wherefore, the said plaintiff says that the said defendant is guilty of a forcible entry and unlawful detainer, contrary to the form of the statute in such case made and provided.

(Signed) A. W. CLELAND, Plaintiff.

TERRITORY OF NEW MEXICO, County of Bernalillo, } ss:

A. W. Cleland, being duly sworn, says that the said complaint by him subscribed and the matters therein contained are true; and further saith not.

(Signed) A. W. CLELAND.

Sworn to and subscribed before me this 14th day of June, A. D. 1904.

(Signed) S. CROLLOTT,
Justice of the Peace, Precinct 13.

Exhibit No. 3.

11 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff,
vs.
MARGUERITO ESPINOSA and JOSE ESPINOSA, Defendants.

Complaint.

A. W. Cleland, plaintiff in the above entitled cause, complains and says that heretofore, to-wit, on the seventh day of June, 1904 at the

county of Bernalillo, he was lawfully entitled to the possession of a certain tract of land, with a tenement thereon, situated in said county, known designated and described as follows:

Lot four (4) in block number five (5) of the Paris addition, situate immediately north of the Mountain road, the north city limits of the city of Albuquerque, New Mexico.

And being so thereof lawfully entitled to the possession as aforesaid, the said defendants, Marguerito Espinosa and Jose Espinosa on the day and year and at the county aforesaid, unlawfully and with force entered into and upon the said tract or parcel of land and tenement and detained and held possession thereof, and *such*, detains and holds possession thereof against the plaintiff.

Wherefore, the said plaintiff says that the said defendant is guilty of a forcible entry and unlawful detainer, contrary to the form of the statute in such case made and provided.

(Signed) A. W. CLELAND, Plaintiff.

TERRITORY OF NEW MEXICO, County of Bernalillo, } ss:

A. W. Cleland, being duly sworn, says that the said complaint by him subscribed and the matters therein contained are true; and further saith not.

(Signed) A. W. CLELAND.

Sworn to and subscribed before me this 14th day of June, A. D. 1904.

(Signed) S. CROLLOTT,
Justice of the Peace, Precinct 13.

Exhibit No. 4.

12 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff,
vs.
W. LOUCKS and FRANK LOUCKS, Defendants.

Complaint.

A. W. Cleland, plaintiff in the above entitled cause, complains and says that heretofore, to-wit, on the seventh day of June, 1904, at the county of Bernalillo, he was lawfully entitled to the possession of a certain tract of land, with a tenement thereon, situated in said county, known, designated and described as follows:

Lots 3, 4, 5, 6, 7 and 8 in block number eighteen (18) of the Paris addition, situate immediately north of the Mountain road, the north city limits of the city of Albuquerque, New Mexico.

And being so thereof lawfully entitled to the possession as aforesaid, the said defendants, W. Loucks and Frank Loucks on the day

and year and at the county aforesaid, unlawfully and with force entered into and upon the said tract or parcel of land and tenement and detained and held possession thereof, and *such*, detains and holds possession thereof against the plaintiff.

Wherefore, the said plaintiff says that the said defendant *is* guilty of a forcible entry and unlawful detainer, contrary to the form of the statute in such case made and provided.

(Signed) A. W. CLELAND, Plaintiff.

TERRITORY OF NEW MEXICO, County of Bernalillo, } ss:

A. W. Cleland, being duly sworn, says that the said complaint by him subscribed and the matters therein contained are true; and further saith not.

(Signed) A. W. CLELAND.

Sworn to and subscribed before me this 14th day of June, A. D. 1904.

(Signed) S. CROLLOTT,
Justice of the Peace, Precinct 13.

Exhibit No. 5.

13

Summons.

Territory of New Mexico to the sheriff (or constable) of the county of Bernalillo, Greeting:

You are hereby commanded to summons Sofre L. Alexander of the county of Bernalillo to appear before the undersigned, a justice of the peace within and for the said county, at his office in Old Albuquerque in said county, on the 20th day of June, at the hour of two o'clock in the afternoon of said day, then and there to answer and defend against the complaint of A. W. Cleland, the forcible entry and unlawful detainer made by the said Sofre L. Alexander upon the lands of the said A. W. Cleland, hereto annexed will more fully appear; and have you then and there this precept with the return of your proceedings thereon.

Given under my hand as such justice of the peace this 14th day of June, in the year of our Lord one thousand nine hundred and four.

(Signed) S. CROLLOTT,
Justice of the Peace.

Return.

I, the undersigned, constable of precinct No. 26 of the county of Bernalillo, do hereby certify that I have served the above summons, with a copy of the complaint attached thereto, upon the said Sofre

L. Alexander, the defendant, by then and there delivering the same to him in person on the 14 day of June, A. D. 1904.

J. H. SMITH,
Constable of Precinct No. 26, County of Bernalillo,
Territory of New Mexico.

Exhibit No. 6.

14 Summons.

Territory of New Mexico to the sheriff (or constable) of the county of Bernalillo, Greeting:

You are hereby commanded to summons Valencino Garcia of the county of Bernalillo to appear before the undersigned, a justice of the peace within and for the said county, at his office in Old Albuquerque in said county, on the 20th day of June, at the hour of two o'clock in the afternoon of said day, then and there to answer and defend against the complaint of A. W. Cleland, the forcible entry and unlawful detainer made by the said Valencino Garcia upon the lands of the said A. W. Cleland, hereto annexed will more fully appear; and have you then and there this precept with the return of your proceedings thereon.

Given under my hand as such justice of the peace this 14th day of June, in the year of our Lord one thousand nine hundred and four.

(Signed) S. CROLLOTT,
Justice of the Peace.

Return.

I, the undersigned, constable of precinct No. 26 of the county of Bernalillo, do hereby certify that I served the above summons, with a copy of the complaint attached thereto, upon the said Valencino Garcia, the defendant, by then and there delivering the same to him in person on the 14 day of June, A. D. 1904.

J. H. SMITH,
Constable of Precinct No. 26, County of Bernalillo,
Territory of New Mexico.

Exhibit No. 7.

15 Summons.

Territory of New Mexico to the sheriff (or constable) of the county of Bernalillo, Greeting:

You are hereby commanded to summons E. A. Huff of the county of Bernalillo to appear before the undersigned, a justice of the peace within and for the said county, at his office in Old Albuquerque in said county, on the 20th day of June, at the hour of two o'clock in the afternoon of said day, then and there to answer and defend against the complaint of A. W. Cleland, the forcible entry and un-

lawful detainer made by the said E. A. Huff upon the lands of the said A. W. Cleland, hereto annexed will more fully appear; and have you then and there this precept with the return of your proceedings thereon.

Given under my hand as such justice of the peace this 14th day of June, in the year of our Lord one thousand nine hundred and four.

(Signed) S. CROLLOTT,
Justice of the Peace.

Return.

I, the undersigned, constable of precinct No. 26 of the county of Bernalillo, do hereby certify that I served the above summons, with a copy of the complaint attached thereto, upon the said E. A. Huff, the defendant, by then and there delivering the same to him in person on the 14 day of June, A. D. 1904.

J. H. SMITH,
Constable of Precinct No. 26, County of Bernalillo,
Territory of New Mexico.

Exhibit No. 8.

16

Summons.

Territory of New Mexico to the sheriff (or constable) of the county of Bernalillo, Greeting:

You are hereby commanded to summons Marguerito Espinosa and Jose Espinosa of the county of Bernalillo to appear before the undersigned, a justice of the peace within and for the said county, at his office in Old Albuquerque in said county, on the 20th day of June, at the hour of two o'clock in the afternoon of said day, then and there to answer and defend against the complaint of A. W. Cleland, the forcible entry and unlawful detainer made by the said Marguerito Espinosa and Jose Espinosa upon the lands of the said A. W. Cleland, hereto annexed will more fully appear; and have you then and there this precept with the return of your proceedings thereon.

Given under my hand as such justice of the peace this 14th day of June, in the year of our Lord one thousand nine hundred and four.

(Signed) S. CROLLOTT,
Justice of the Peace.

Return.

I, the undersigned, constable of precinct No. 96 of the county of Bernalillo, do hereby certify that I served the above summons, with a copy of the complaint attached thereto, upon the said Marguerito Espinosa and Jose Espinosa, the defendant-, by then and there de-

livering the same to *him* in person on the 14 day of June, A. D. 1904.

J. H. SMITH,
Constable of Precinct No. 26, County of Bernalillo,
Territory of New Mexico.

Exhibit No. 9.

17 Summons.

Territory of New Mexico to the sheriff (or constable) of the county of Bernalillo, Greeting:

You are hereby commanded to summon W. Loucks and Frank Loucks of the county of Bernalillo to appear before the undersigned, a justice of the peace within and for the said county, at his office in Old Albuquerque in said county, on the 20th day of June, at the hour of two o'clock in the afternoon of said day, then and there to answer and defend against the complaint of A. W. Cleland, the forcible entry and unlawful detainer made by the said W. Loucks and Frank Loucks upon the lands of the said A. W. Cleland, hereto annexed will more fully appear; and have you then and there this precept with the return of your proceedings thereon.

Given under my hand as such justice of the peace this 14th day of June, in the year of our Lord one thousand nine hundred and four.

(Signed) S. CROLLOTT,
Justice of the Peace.

Return.

I, the undersigned, constable of precinct No. 26 of the county of Bernalillo, do hereby certify that I served the above summons, with a copy of the complaint attached thereto, upon the said W. Loucks and Frank Loucks, the defendant-, by then and there delivering the same to *him* in person on the 14 day of June, A. D. 1904.

J. H. SMITH,
Constable of Precinct No. 26, County of Bernalillo,
Territory of New Mexico.

Exhibit No. 10.

18 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County, Territory of New Mexico.

A. W. CLELAND, Plaintiff,
v.
SOFRE L. ALEXANDER, Defendant.

ANSWER.

The defendant, Sofre L. Alexander, for answer to the complaint of the plaintiff in the above entitled cause, denies that on the 7th

day of June, 1904, or at any other time, the plaintiff was lawfully entitled to the possession of the tract of land described in the said complaint, and further denies that on the said day, or at any other time, this defendant entered into and upon the said tract of land unlawfully, or with force and arms, but on the contrary thereof, this defendant alleges that he is, and ever since the month of December, 1902, has been, in the actual possession of said tract of land, claiming in good faith to be the owner thereof, and that there is now, and for a long time past has been, pending in the district court of the county of Bernalillo aforesaid, a suit in equity wherein this defendant is plaintiff, and wherein the said plaintiff is defendant, in which this plaintiff is seeking to establish his title to the tract of land described in the complaint herein, and to various other tracts and parcels of land in the county of Bernalillo aforesaid, which said suit is pending and undetermined in the said district court.

Wherefore the defendant says that this court is without jurisdiction to hear and determine the matters attempted to be set up in the said complaint, or to grant to the plaintiff any relief therein, and he prays to be hence dismissed with his costs in this behalf sustained.

(Signed) NEILL B. FIELD,
Attorney for Defendant.

TERRITORY OF NEW MEXICO, }
County of Bernalillo. }

Sofre L. Alexander, being duly sworn on his oath deposes and says that the allegations in the foregoing answer are true as he verily believes.

[NOTARIAL SEAL.] (Signed) SOFRE L. ALEXANDER.

Subscribed and sworn to before me this 18th day of June, 1904.

(Signed) FRANK H. MOORE,
Notary Public, Bernalillo Co., New Mexico.

Exhibit No. 11.

19 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13, Bernalillo County, Territory of New Mexico.

A. W. CLELAND, Plaintiff, }
v.
VALENCINO GARCIA, Defendant. }

Answer.

Valencino Garcia, the defendant, for answer to the complaint of the plaintiff in the above entitled cause, denies that on the 7th day of June, 1904, or at any other time, the plaintiff was lawfully entitled to the possession of the tract of land described in the said complaint, and further denies that on said day, or at any other time,

this defendant unlawfully, or with force and arms, entered upon the said tract of land, but on the contrary thereof, this defendant alleges that long prior to the 7th day of June, 1904, he entered into possession of said tract of land as tenant of one Sofre L. Alexander, who, for a long time prior to said 7th day of June, 1904, was in the possession of the said tract of land, claiming in good faith, as this defendant is informed and believes, to be the owner thereof, and that there is now, and for a long time past has been, pending in the district court of the county of Bernalillo aforesaid, a suit in equity, wherein the said Sofre L. Alexander is plaintiff, and the said plaintiff is defendant, in which said suit the said Alexander is seeking to establish his title to the tract of land described in the complaint herein, and to various other tracts and parcels of land in the county of Bernalillo aforesaid, which said suit is pending and undetermined in said district court.

Wherefore the defendant says that this court is without jurisdiction to hear or determine the matters attempted to be set up in the said complaint, or to grant to the plaintiff any relief herein, and he prays to be hence dismissed with his costs in this behalf sustained.

(Signed) NEILL B. FIELD,
Attorney for Defendant.

TERRITORY OF NEW MEXICO, }
County of Bernalillo. }

Valencino Garcia, being duly sworn, on his oath deposes and says that the allegations in the foregoing answer are true as he verily believes.

[NOTARIAL SEAL.] his BALENTINO x GARCIA. mark.

FRANK H. MOORE,
Witness to Above Signature.

Subscribed and sworn to before me this 18th day of June, 1904.
FRANK H. MOORE,
Notary Public, Bernalillo Co., New Mexico.

Exhibit No. 12.

20 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13, Bernalillo County, Territory of New Mexico.

A. W. CLELAND, Plaintiff, }
v.
E. A. HUFF, Defendant. }

Answer.

E. A. Huff, the defendant, for answer to the complaint of the plaintiff in the above entitled cause, denies that on the 7th day of

June, 1904, or at any other time, the plaintiff was lawfully entitled to the possession of the tract of land described in the said complaint, and further denies that on said day, or at any other time, this defendant unlawfully, or with force and arms, entered upon the said tract of land, but on the contrary thereof, this defendant alleges that long prior to the 7th day of June, 1904, he entered into possession of said tract of land as tenant of one Sofre L. Alexander, who for a long time prior to said 7th day of June, 1904, was in the possession of the said tract of land, claiming in good faith, as this defendant is informed and believes, to be the owner thereof, and that there is now, and for a long time past has been, pending in the district court of the county of Bernalillo aforesaid, a suit in equity, wherein the said Sofre L. Alexander is plaintiff, and the said plaintiff is defendant, in which said suit the said Alexander is seeking to establish his title to the tract of land described in the complaint herein, and to various other tracts and parcels of land in the county of Bernalillo aforesaid, which said suit is pending and undetermined in said district court.

Wherefore the defendant says that this court is without jurisdiction to hear or determine the matters attempted to be set up in the said complaint, or to grant to the plaintiff any relief herein, and he prays to be hence dismissed with his costs in this behalf sustained.

(Signed) NEILL B. FIELD,
Attorney for defendant.

TERRITORY OF NEW MEXICO, }
County of Bernalillo. }

E. A. Huff, being duly sworn, on his oath deposes and says that the allegations in the foregoing answer are true as he verily believes.

[NOTARIAL SEAL.] (Signed) E. A. HUFF.

Subscribed and sworn to before me this 18th day of June, 1904.

FRANK H. MOORE,
Notary Public, Bernalillo Co., New Mexico.

Exhibit No. 13.

21 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13, Bernalillo County, Territory of New Mexico.

A. W. CLELAND, Plaintiff,
v.
MARGUERITO ESPINOSA and JOSE ESPINOSA, Defendants. }

Answer.

Marguerito Espinosa and Jose Espinosa, the defendants, for answer to the complaint of the plaintiff in the above entitled cause, deny

that on the 7th day of June, 1904, or at any other time, the plaintiff was lawfully entitled to the possession of the tract of land described in the said complaint, and further deny that on said day, or at any other time, these defendants unlawfully, or with force and arms, entered upon the said tract of land, but on the contrary thereof, these defendants allege that long prior to the 7th day of June, 1904, they entered into possession of said tract of land as tenauts of one Sofre L. Alexander, who, for a long time prior to said 7th day of June, 1904, was in the possession of the said tract of land, claiming in good faith, as these defendants are informed and believe, to be the owner thereof, and that there is now, and for a long time past has been, pending in the district court of the county of Bernalillo aforesaid, a suit in equity, wherein the said Sofre L. Alexander is plaintiff, and the said plaintiff is defendant, in which said suit the said Alexander is seeking to establish his title to the tract of land described in the complaint herein, and to various other tracts and parcels of land in the county of Bernalillo aforesaid, which said suit is pending and undetermined in said district court.

Wherefore the defendants say that this court is without jurisdiction to hear or determine the matters attempted to be set up in the said complaint, or to grant to the plaintiff any relief herein, and they pray to be hence dismissed with their costs in this behalf sustained.

(Signed) NEILL B. FIELD,
Attorney for Defendant.

TERRITORY OF NEW MEXICO, }
County of Bernalillo. }

Margarito Espinosa, being duly sworn, on his oath deposes and says that the allegations in the foregoing answer are true as he verily believes.

[NOTARIAL SEAL.] (Signed) MARGARITO ESPINOSA.

Subscribed and sworn to before me this 18th day of June, 1904.
FRANK H. MOORE,
Notary Public, Bernalillo Co., New Mexico.

Exhibit No. 14.

22 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13, Bernalillo County, Territory of New Mexico.

A. W. CLELAND, Plaintiff,
v.
W. LOUCKS and FRANK LOUCKS, Defendants. }

Answer.

W. Loucks and Frank Loucks, the defendants, for answer to the complaint of the plaintiff in the above entitled cause, deny that on

the 7th day of June, 1904, or at any other time, the plaintiff was lawfully entitled to the possession of the tract of land described in the said complaint, and further deny that on said day, or at any other time, these defendants unlawfully, or with force and arms, entered upon the said tract of land, but on the contrary thereof, these defendants allege that long prior to the 7th day of June, 1904, they entered into possession of said tract of land as tenants of one Sofre L. Alexander, who, for a long time prior to said 7th day of June, 1904, was in the possession of the said tract of land, claiming in good faith, as these defendants are informed and believe, to be the owner thereof, and that there is now, and for a long time past has been, pending in the district court of the county of Bernalillo aforesaid, a suit in equity, wherein the said Sofre L. Alexander is plaintiff, and the said plaintiff is defendant, in which said suit the said Alexander is seeking to establish his title to the tract of land described in the complaint herein, and to various other tracts and parcels of land in the county of Bernalillo aforesaid, which said suit is pending and undetermined in said district court.

Wherefore the defendants say that this court is without jurisdiction to hear or determine the matters attempted to be set up in the said complaint, or to grant to the plaintiff any relief herein, and they pray to be hence dismissed with their costs in this behalf sustained.

(Signed) NEILL B. FIELD,
Attorney for Defendant.

TERRITORY OF NEW MEXICO, }
County of Bernalillo. }

Wm. W. Loucks, being duly sworn, on his oath deposes and says that the allegations in the foregoing answer are true as he verily believes.

[NOTARIAL SEAL.] (Signed) WM. W. LOUCKS.

Subscribed and sworn to before me this 18th day of June, 1904.

FRANK H. MOORE,
Notary Public, Bernalillo Co., New Mexico.

Exhibit No. 15.

23 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff, }
vs.
SOFRE L. ALEXANDER, Defendant. }

Judgment.

This cause coming on this day for hearing, and the respective parties being present with their attorneys, and the court having taken the case under advisement at the hearing on yesterday, the

court now, on this the 24th day of June, 1904, finds for plaintiff, and adjudges the defendant guilty of the forcible entry and unlawful detainer complained of against him, in the complaint of the plaintiff, and the court does order and adjudge that the defendant be removed from the premises described in the complaint, and particularly described as lot nineteen (19) in block thirteen (13), in the Paris addition, and that the plaintiff be put in possesson thereof, and that the plaintiff do have and recover of the defendant as his damages, the sum of three dollars, together with the costs of this proceeding, and that warrant of removal issue, with a clause commanding the officer to levy said damages and costs, as provided by the statute.

Exhibit No. 16.

24 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff,
vs.
VALENCINO GARCIA, Defendant.

Judgment.

This cause coming on this day for hearing, and the respective parties being present with their attorneys, and the court having taken the case under advisement at the hearing on yesterday, the court now, on this the 24th day of June, 1904, finds for plaintiff, and adjudges the defendant guilty of the forcible entry and unlawful detainer complained of against him, in the complaint of the plaintiff, and the court does order and adjudge that the defendant be removed from the premises described in the complaint, and particularly described as lots five (5) and six (6) in block two (2), in the Paris addition, and that the plaintiff be put in possession thereof, and that the plaintiff do have and recover of the defendant as his damages, the sum of three dollars, together with the costs of this proceeding, and that warrant of removal issue, with a clause commanding the officer to levy said damages and costs, as provided by the statute.

Exhibit No. 17.

25 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff,
vs.
E. A. HUFF, Defendant.

Judgment.

This cause coming on this day for hearing, and the respective parties being present with their attorneys, and the court having

taken the case under advisement at the hearing on yesterday, the court now, on this the 24th day of June, 1904, finds for plaintiff, and adjudges the defendant guilty of the forcible entry and unlawful detainer complained of against him, in the complaint of the plaintiff, and the court does order and adjudge that the defendant be removed from the premises described in the complaint, and particularly described as lots two (2) and three (3) in block sixteen (16), in the Paris addition, and that the plaintiff be put in possession thereof, and that the plaintiff do have and recover of the defendant as his damages, the sum of three dollars, together with the costs of this proceeding, and that warrant of removal issue, with a clause commanding the officer to levy said damages and costs, as provided by the statute.

Exhibit No. 18.

26 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff,
vs.
MARGUERITO ESPINOSA and JOSE ESPINOSA, Defendants.

Judgment.

This cause coming on this day for hearing, and the respective parties being present with their attorneys, and the court having taken the case under advisement at the hearing on yesterday, the court now, on this the 24th day of June, 1904, finds for plaintiff, and adjudges the defendants guilty of the forcible entry and unlawful detainer complained of against them, in the complaint of the plaintiff, and the court does order and adjudge that the defendants be removed from the premises described in the complaint, and particularly described as lot four (4) in block five (5) in the Paris addition, and that the plaintiff be put in possession thereof, and that the plaintiff do have and recover of the defendants as his damages, the sum of three dollars, together with the costs of this proceeding, and that warrant of removal issue, with a clause commanding the officer to levy said damages and costs, as provided by the statute.

Exhibit No. 19.

27 Before Seferino Crollott, Justice of the Peace in and for Precinct No. 13 of Bernalillo County.

A. W. CLELAND, Plaintiff,
vs.
W. LOUCKS and FRANK LOUCKS, Defendants.

Judgment.

This cause coming on this day for hearing, and the respective aprties being present with their attorneys, and the court having taken the case under advisement at the hearing on yesterday, the court now, on this the 24th day of June, 1904, finds for plaintiff, and adjudges the defendants guilty of the forcible entry and unlawful detainer complained of against them, in the complaint of the plaintiff, and the court does order and adjudge that the defendants be removed from the premises described in the complaint, and particularly described as lots 3, 4, 5, 6, 7 & 8 in block eighteen (18), in the Paris addition, and that the plaintiff be put in possession thereof, and that the plaintiff do have and recover of the defendants as his damages, the sum of three dollars, together with the costs of this proceeding, and that warrant of removal issue, with a clause commanding the officer to levy said damages and costs, as provided by the statute.

Exhibit No. 20.

28 Be it remembered, that afterwards, on to wit the said the 28th day of June, A. D., 1904, there was granted by Associate Justice William H. Pope, the said motion for a writ of prohibition, and issued out of the office of the supreme court of the Territory of New Mexico, a writ of prohibition, which said writ of prohibition together with the service return thereto, was duly filed and returned to the said office of the clerk of the supreme court of the Territory of New Mexico, on the first day of July A. D., 1904, and it is in words and figures, following to wit.

29 The Territory of New Mexico to Seferino Crollott, justice of the peace in and for precinct No. 13 of the county of Bernalillo and Territory of New Mexico, Greeting:

Whereas Sofre L. Alexander has presented his motion anda ffidavit to the Honorable Wm. H. Pope, associate justice of the supreme court of the Territory of New Mexico, in vacation, praying for a writ of prohibition to be directed to you, the said Seferino Crollott, as justice of the peace of precinct No. 13 of the county of Bernalillo and Territory of New Mexico, commanding you to desist and refrain from any other proceedings in the actions specified therein, and

Whereas the cause shown therein appears to the said associate justice to be sufficient,

Now, therefore, you, the said Seferino Crollott, justice of the peace as aforesaid, are hereby commanded to desist and refrain from any

other proceedings in the following actions of forcible entry and unlawful detainer filed in your court on June 14th, 1904, by A. W. Cleland, to-wit:

A. W. Cleland *v.* Sofre L. Alexander
A. W. Cleland *v.* Valencino Garcia
A. W. Cleland *v.* E. A. Huff
A. W. Cleland *v.* W. Loucks *et al.*, and
A. W. Cleland *v.* Marguerito Espinosa *et al.*

until the next term of the supreme court of the Territory of New Mexico, to be begun and held on the 4th day of January, 1905, or until the further order of the said court thereon, and that you show cause at the said next term of said court on said first day thereof why you should not be absolutely restrained from any further proceedings in such actions.

Witness the Honorable William J. Mills, chief justice of the Territory of New Mexico, and the seal of said supreme court this 28th day of June, 1904.

[SUPREME COURT SEAL.]

JOSE D. SENA,
Clerk of the Supreme Court.

The foregoing writ is hereby allowed, and the first day of the next regular term of the supreme court of the Territory of New Mexico is designated as the return day thereof, and the said writ shall
30 be served upon the said Seferino Crollott, justice of the peace of precinct No. 13 of the county of Bernalillo and Territory of New Mexico, by delivering to him a copy of the said writ, together with a copy of the affidavit upon which the same was issued, by any disinterested person, proof of service thereof, if made by any one other than the sheriff of Bernalillo county or his deputy, to be made under oath, and such service to be made within three days after the issuance of this writ.

WM. H. POPE,
Associate Justice of the Supreme Court
of the Territory of New Mexico.

Santa Fe, New Mexico, June 28th, 1904.

TERRITORY OF NEW MEXICO, County of Bernalillo, } ss:

Marcus P. Sawtelle, of lawful age, being first duly sworn, on his oath deposes and says that on the 29th day of June, 1904, in the county and Territory aforesaid, he served the within writ by delivering a true copy thereof, together with a true copy of the motion and affidavit upon which the same was issued, to the within named Seferino Crollott, justice of the peace of precinct No. 13 of said county and Territory; and that he has no interest in the proceedings in which said writ was issued.

MARCUS P. SAWTELLE.

Subscribed and sworn to before me this 30th day of June, 1904.

FRANK H. MOORE,
[SEAL.] Notary Public, Bernalillo County, New Mexico.

31 And afterwards, on to wit the second day of September, A. D., 1904, there was filed in the office of the clerk of the supreme court of the Territory of New Mexico, a motion to quash the writ of prohibition herein, which said motion is in words and figures following to wit:—

In the Supreme Court of the Territory of New Mexico.

SOFRE L. ALEXANDER, Relator, vs. SEFERINO CROLLOTT, Justice of the Peace of Precinct No. 13 of the County of Bernalillo and Territory of New Mexico, Respondent.	No. 1059. Prohibition.

Motion to Quash Writ of Prohibition.

Now comes the respondent in the above entitled cause by W. B. Childers, his attorney, and moves the court to quash the writ of prohibition issued out of this court on the 28th day of June, A. D. 1904, restraining the respondent from taking any action in these certain causes pending before him as justice of the peace of precinct No. 13 of the county of Bernalillo, New Mexico, entitled, A. W. Cleland, as plaintiff, *versus* Sofre L. Alexander and Velencino Garcia, and E. A. Huff and W. Lucks *et al.*, and Margarito Espino, *et al.*, as defendants, for the following reasons to wit:—

1. It appears in and by the affidavit and exhibits attached to the same upon which said writ was issued, that the respondent as such justice of the peace had jurisdiction of the subject matter of said suits.

2. Because no writ of prohibition lies against any erroneous decision of respondent, if any there was, or from enforcing an erroneous judgment based of such decision where the court had a right to adjudicate.

32 3. Because the relator had a full and complete legal remedy by appeal from the decision of the respondent to the district court for the county of Bernalillo, to correct any erroneous decision, if such there was.

4. Because the relator had an adequate, speedy and effectual remedy by appeal.

5. Because the respondent as such justice of the peace had a right to determine whether or not a question of title was involved in the proceedings before him.

6. Because it clearly appears in and by the motion, affidavits and exhibits that the respondent had jurisdiction over the parties and

subject matter of the actions before him, and the issuance of this writ is an attempt to control a judicial determination alleged to be erroneous when there is a full, adequate and speedy remedy by appeal.

Wherefore, by reason of the above, the respondent prays the court to quash said writ and these proceedings.

W. B. CHILDERS,
Attorney for Respondent.

And afterwards, on to wit, at a regular term of the supreme court of the Territory of New Mexico, begun and held at Santa Fe, the seat of government, on the first Wednesday after the first Monday in January, 1904, on the twenty-second day thereof, the same being the 3rd day of September, A. D., 1904, the following among other proceedings were had and entered of record, as follows to wit:—

33 SOFRE L. ALEXANDER, Relator,
vs.
SEFERINO CROLLOTT, Justice, etc., Respondent. } No. 1059. Prohibition.

It is ordered by the court, that the motion of respondents herein, to quash the writ of prohibition herein heretofore issued, be, and the same hereby is set for hearing for Tuesday, the 13th day of September, 1904.

And afterwards, on to wit, the said regular term of the supreme court aforesaid, on the twenty-fourth day thereof, the same being the 13th day of September, A. D. 1904, the following among other proceedings were had and entered of record, to wit:

SOFRE L. ALEXANDER, Relator,
vs.
SEFERINO CROLLOTT, Justice, etc., Respondent. } No. 1059. Prohibition.

This cause coming on to be heard upon the motion of respondent herein, to quash the writ of prohibition herein, heretofore issued, is argued by W. B. Childers, Esq. for respondent, and Neill B. Field, Esq. for relator, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

And afterward, at the said regular term of the supreme court, on the twenty-fifth day thereof, the same being the 14th day of September, A. D., 1904, the following among other proceedings were had and entered of record, to wit:

34 SOFRE L. ALEXANDER, Relator,
vs.
SEFERINO CROLLOTT, Justice, etc., Respondent. } No. 1059. Prohibition.

This cause having come before the court upon the motion of respondents herein to quash the writ of prohibition hereinbefore granted herein, and the *the* same having been argued by counsel, and submitted to and taken under advisement by the court, and being now sufficiently advised in the premises, grants the said motion and quashes the writ of prohibition herein for the reasons announced by the court orally: It is therefore considered and adjudged by the court that the writ of prohibition hereinbefore granted herein, be and the same hereby is quashed and held for naught. And now comes the relator herein, and prays an appeal from the judgment of this court to the Supreme Court of the United States which said appeal is hereby granted by the court; it is therefore ordered and adjudged that the said relator herein, do have an appeal from the judgment of this court to the Supreme Court of the United States.

TERRITORY OF NEW MEXICO, *ss:*

Supreme Court.

I the undersigned clerk of the supreme court of the Territory of New Mexico, do hereby certify that the above and foregoing 33 pages and nineteen lines, contain a true, full and complete transcript of the record and proceedings in the above entitled cause.

Witness my hand and the seal of the supreme court of the Territory of New Mexico this the 19th day of September, A. D. 1904.

Seal Supreme Court, Territory of New Mexico.

JOSÉ D. SENA,
Clerk Territorial Supreme Court.

35 In the Supreme Court of the United States.

SOFRE L. ALEXANDER, Appellant,
vs.
SEFERINO CROLLOTT, Justice of the Peace of Precinct No. 13 of the County of Bernalillo and Territory of New Mexico, Appellee.

Assignment of Errors.

Comes now the said appellant, and shows to the court here that in the record, proceedings and judgment of the supreme court of the Territory of New Mexico in the above-entitled cause, there is manifest error, in this, to wit:—

I.

The court erred in assuming jurisdiction of this cause before the return term of the writ of prohibition.

II.

The court erred in sustaining the motion of the appellee to quash the writ of prohibition.

III.

The court erred in rendering judgment against appellant.

Wherefore appellant prays that the judgment of the supreme court of New Mexico may be reversed, vacated and set aside, and this cause remanded with directions to grant unto appellant a writ of prohibition as prayed for.

NEILL B. FIELD,
Attorney for Appellant.

36 [Endorsed:] In the Supreme Court of the United States. Sofre L. Alexander, appellant, *vs.* Seferino Crollott, justice of the peace of precinct No. 13 of the county of Bernalillo and Territory of New Mexico, appellee. Assignment of errors. Neill B. Field, attorney for appellant.

Endorsed on cover: File No. 19,520. New Mexico Territory supreme court. Term No. 118. Sofre L. Alexander, appellant, *vs.* Seferino Crollott, justice of the peace of precinct No. 13 of the county of Bernalillo and Territory of New Mexico. Filed November 8th, 1904. File No. 19,520.